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THE TRADE AND GLOBALIZATION ASSISTANCE ACT OF 2007
SECTION-BY-SECTION ANALYSIS

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Subtitle A – Trade Adjustment Assistance for Service Sector Workers; Expansion of Covered Shifts in Production; Expansion of Downstream Secondary Worker Eligibility

Sec. 101. Extension of trade adjustment assistance to service sector workers; expansion of covered shifts in production; expansion of downstream secondary worker eligibility; automatic certification for workers in firms covered by an ITC injury determination. The section expands TAA eligibility to service sector workers on the same terms as those applied to manufacturing workers (i.e., the workers must be employed by firm where a significant number of workers have been or are threatened with layoff and there is a connection between the layoffs and trade).

The section also expands the "shift in production" basis for establishing the connection between layoffs and trade by eliminating the requirement that the shift in production be to a U.S. FTA partner (e.g., a NAFTA country) or a U.S. regional preference partner (e.g., an AGOA country). Under the bill, manufacturing and service sector workers whose firm relocates to any foreign country may be eligible for TAA. The section also expands TAA coverage to include workers who lose their jobs because their firm obtains "like or directly competitive" articles or services from a firm in another country on a contract basis.

The section also expands TAA coverage to public sector workers. Such workers are eligible for TAA if: (1) a significant number of workers within a public sector agency have been laid off or threatened with layoff; and (2) the public agency has, or is likely to, obtain the services that would have been provided by such workers from a foreign country.

The section eliminates the requirement for downstream firms that the primary firm's certification be linked to trade with Canada or Mexico. The section also amends the definition of supplier and downstream producer to include firms that provide services.

The section provides the Secretary of Labor with the authority to use several alternative bases to establish increased imports of services, and to establish that offshoring or offshore outsourcing has occurred.

The section provides for automatic group certification under TAA for workers laid off from firms covered by an affirmative injury determination under U.S. anti-dumping, countervailing duty, or safeguard laws.

Sec. 102. Determinations by Secretary of Labor. The provision is a technical correction that strikes the language in existing law making a worker ineligible for TAA, if that worker lost his job 6 months prior to the effective date of the subsection.

Sec. 103. Monitoring and reporting relating to service sector. The section renames Sec. 282 of existing law "Trade Monitoring and Data Collection." It also requires the Secretary to monitor imports of services (in addition to articles). To address data limitations, the section requires the Secretary of Labor to collect data on impacted service workers (by State, industry, and cause). Finally, it requires the Secretary of Commerce, in consultation with the Secretary of Labor, to report to Congress on ways to improve the timeliness and coverage of data regarding trade in services.

Subtitle B—Industry-Wide Trade Adjustment Assistance

Sec. 111. Industry-wide determinations. The section requires the Secretary of Labor to conduct an industry-wide certification investigation when either: (1) three petitions from firms in the same industry are certified within a 6-month period; or (2) if the President, or the U.S. Trade Representative, or the House Ways and Means Committee, or the Senate Finance Committee requests the Secretary to conduct such an investigation. The investigation is to determine whether all workers in an industry or alternatively, all workers in an industry within a specific geographic region, should be eligible for TAA. Industries are defined using the North American Industry Classification.

The Secretary must make the industry-wide eligibility determination within 60 days of certifying the third petition or receiving a request/resolution. Once a determination is made, the Secretary must identify all the firms covered by the determination. All workers of the identified firms are eligible to apply for TAA without the need for any additional group eligibility determination. Workers must still meet the individual eligibility requirements, such as being eligible for UI under the applicable State law. Industry-wide certifications can cover workers for up to one year before the date of the request or resolution triggering the investigation, or for one year before the date the Secretary certifies the third petition, as applicable.

In the case of affirmative determinations, the Secretary of Labor shall notify the Governor(s) of the State(s) in which workers eligible for TAA under the determination are located. In the case of a negative determination, the Secretary of Labor must notify House Ways and Means and Senate Finance of the reasons for the decision. A summary of each industry-wide determination must be promptly published in the *Federal Register*, along with the reasons underlying the determination.

The Secretary has the authority to terminate an industry-wide determination when the certification is no longer warranted and shall have the termination published promptly in the *Federal Register*. Workers losing their jobs after the termination date shall not be eligible for TAA under the industry-wide certification.

Within one year of enactment of the reauthorization TAA, the Secretary must issue regulations for making industry-wide determinations.

The section also amends Section 231(a) to change the date on which a worker can receive TAA income support from 60 days from the date of the petition to the date of group certification, and includes a conforming change to include industry-wide certifications.

Sec. 112. Notifications regarding affirmative injury determinations and safeguards. The section renames the section, "Study and Notifications Regarding Affirmative Determinations and Safeguards" and instructs the ITC to notify the Secretary of Labor and the Secretary of Commerce when it issues an affirmative injury determination in a safeguard case (Section 201 or 421 of the Trade Act of 1974) or an antidumping/countervailing duty case (Section 705 or 735 of the Tariff Act of 1930). The section requires the ITC to provide Labor and Commerce with the names of those firms comprising the domestic industry.

The section requires the Secretary of Labor to notify employers, workers and unions of firms covered by the trade remedy of the workers' potential eligibility under the TAA for Workers program, and to provide them with assistance in filing petitions. Similarly, the Secretary of Commerce must notify firms covered by the trade remedy of their potential eligibility for TAA for Firms and provide them with assistance in filing petitions.

Sec. 113. Notification to Secretary of Commerce. The section requires the Secretary of Labor, upon issuing a certification (including an industry-wide certification), to notify the Secretary of Commerce of the identity of the firms covered by a certification.

Sec. 114. Restriction on eligibility for program benefits. This section prohibits immigrants who lack legal status from receiving any TAA benefits, including income support, employment services, or training.

Subtitle C—Program Benefits

Sec. 121. Qualifying requirements for workers. The section strikes the "8/16" rule and extends the deadline for trade-impacted workers to enroll in training to 26 weeks from the later of job loss or TAA certification.

The section also gives the Secretary the authority to waive the new 26 week training enrollment deadline if a worker was not given timely notice of the deadline.

The section includes a clarification that the "marketable skills" training waiver applies to workers who have post-graduate degrees from institutions of higher education or equivalent post-graduate certifications in specialized fields.

The section requires the Secretary to authorize States to issue limited training waivers. It also amends the waiver length rules and stipulates that such waivers last for 3 months, but that States may renew them for an additional 3 months, if needed.

The section requires that all determinations of eligibility for TAA should be made by State employees appointed on a merit basis.

The section also strikes the 210 day rule, which mandates that a worker is not eligible for additional TRA payment if she has not applied for training 210 days from certification or job loss, which ever is later.

Sec. 122. Weekly amounts. The section amends existing law to allow workers enrolled in a TAA training program to work part-time without adverse consequences for their TAA income support eligibility. The provision states that: (1) for purposes of determining a worker's weekly trade readjustment allowance (TRA) amount, earnings where the worker is working part-time and participating in full-time training should be disregarded; and (2) TAA eligible workers will retain the amount of income support provided initially under TRA even if a new UI benefit period (with a lower weekly amount) is established due to the worker obtaining part-time or short-term full-time employment while enrolled in training.

Sec. 123. Limitations on trade readjustment allowances; allowances for extended training and breaks in training. The section increases the number of weeks a worker can receive additional TRA from 52 to 78 and expands the time in which a worker can receive additional TRA from 52 weeks to 91 weeks.

Sec. 124. Special rules for calculation of eligibility period. The section states that periods during which an administrative or judicial appeal of a negative determination is pending will not be counted when calculating a worker's eligibility for TRA. Moreover, the section grants justifiable cause authority to the Secretary to extend certain applicable deadlines concerning receipt of basic and additional TRA. Justifiable cause may include the State's failure to provide a worker with timely information, delays in certification associated with appeals, and justifiable breaks in training beyond the allowed 30 days.

Sec. 125. Application of State laws and regulations on good cause for waiver of time limits or late filing of claims. The section makes a State's "good cause" law applicable when the State is making determinations concerning a worker's claim for TRA or other adjustment assistance.

Sec. 126. Employment and case management services. The section requires the Secretary and the States to, among other things, (1) perform comprehensive and specialized assessments of enrollees' skill levels and needs; and (2) develop individual employment plans for each impacted worker and provide enrollees with (a) information on available training, (b) information on individual counseling to determine which training is suitable, and (c) information on how to apply for such training. The section also requires the Department of Labor and the States to provide TAA program

participants with short-term prevocational services and individual career counseling before, during, and after they obtain new jobs.

Sec. 127. Training. The section strikes the obsolete requirement that the Secretary of Labor shall "assure the provision" of on the job training (OJT). The section also lifts the prohibition on TAA participants using personal resources to fund training programs that extend beyond normal program eligibility. However, the worker may not be required to contribute such funds to get approved training.

The section increases the training cap from $220M to $440M in FY2008 and FY2009 and to $660M in 2010. It also requires that the Secretary of Labor, in consultation with the Ways and Means and Finance Committees, develop a new method of allocating TAA training funds among the States. The section directs the Secretary to consider certain factors in allocating training funds, including: the number of workers certified in the previous year; the number of workers enrolled in training; the minimum level of funding needed to provide approved training; WARN and other potential layoff notifications; and tying the non-initial distributions of training funds to whether the State requested such funds. The section also instructs GAO to study the new allocation procedures and provide an interim and final report.

Sec. 128. Prerequisite education; approved training programs. The section offers up to an additional 26 weeks of income support while workers take prerequisite training classes. The section also changes existing law to allow training funds to be used to pay for training at an accredited institution of higher education, including training to obtain or complete a degree or certification program (where completion of the degree or certification can be reasonably expected to result in employment). It also clarifies that a State may not restrict workers' training options to just to training approved under WIA.

Sec. 129. Eligibility for unemployment insurance and program benefits while in training. The section clarifies that UI laws relating to availability of work, active search for work, and refusal to accept work do not apply if a worker: (1) is in training; or (2) left work that was unsuitable or was temporary work during a break in training or while commencement of training was delayed. The section also reinforces the fact that OJT needs to be *suitable* OJT, and defines such OJT as reasonably expected to lead to employment, that is compatible with the workers' skills, and that includes a State-certified benchmark-based curriculum.

Sec. 130. Administrative expenses and employment and case management services. The section codifies current practice by authorizing that each State receives funds equal to 15% of its training funding allocation to cover administrative expenses, including the processing of waivers and the collection of data, and for providing case management and employment services. The section also provides an additional amount of funding to each State that is equal to .06% of the training cap for case management and employment services. In 2008, this will equal $264,000; in 2010, this will equal $396,000. The section requires that funds provided to cover administrative expenses in excess of the

amount provided in FY2007 as well as the .06% payment must be administered by merit based staff.

Sec. 131. Job search and relocation allowances. The section increases the job search and relocation reimbursement rates from 90% to 100% of a worker's job search expense and relocation expenses. It also increases each allowance cap from $1,250 to $1,500 to keep pace with inflation. Moreover, it includes a technical correction striking the provision in existing law that precludes a worker who receives a waiver from eligibility for either allowance.

Subtitle D—Health Care Provisions

Sec. 141. Modifications relating health insurance assistance for certain TAA and PBGC pension recipients. This section increases the Health Coverage Tax Credit (HCTC) for qualified insurance premiums from 65 percent to 85 percent and allows the end-of-year credit to be applied to premiums for qualified insurance that are paid prior to TAA eligibility determination (provided the person is ultimately determined eligible for assistance).

In addition, the section strengthens the current law provisions relating to nondiscriminatory premiums by establishing a rating requirement specific to the HCTC population.

The section also eliminates the training requirement for TAA eligible individuals who are receiving unemployment insurance, allows for continued qualification of spouses and dependents in the event the TAA or PBGC eligible individual becomes eligible for Medicare, dies, or is divorced, and modifies the creditable coverage requirements for PBGC and TAA eligible individuals.

Finally, the section provides for a GAO study on the HCTC that will inform the Congress in the development of an alternative health benefit for trade-displaced workers. The section sunsets the HCTC after December 31, 2009.

Subtitle E—Wage Insurance

Sec. 151. Reemployment trade adjustment assistance program for older workers. This section eliminates current-law requirement that a worker must find employment within 26 weeks of being laid-off to be eligible for wage insurance benefit. It replaces it with a requirement that the clock on the two-year duration of the benefit begin at the sooner of exhaustion of regular unemployment benefits or reemployment, allowing initial receipt of the age insurance benefit at any point during that two-year window.

The section eliminates requirement that firms (in addition to individuals) be specifically certified for wage insurance in addition to TAA certification. (This additional certification assesses whether a certain number of the company's workers are over the age of 50 and lack easily transferable skills.).

The section increases the limit on wages in eligible reemployment from $50,000 a year to $60,000 a year to account for inflation since program was established. It also increases maximum wage insurance benefit (over two years) from up to $10,000 to up to $12,000 to account for inflation since program was established.

The section lifts the restriction on wage insurance recipients participating in TAA-funded training. It also permits workers reemployed less than full-time, but at least 20 hours a week, who are in approved training to receive the wage insurance benefit (which would be pro-rated if the worker is reemployed for fewer hours compared to previous employment).

Subtitle F—Other Matters

Sec. 161. Agreements with States. The section mandates that the States *shall* provide affected workers with, among other things, the employment and case management services set forth in Section 235 (as amended) and requires States to perform (1) outreach, (2) intake, and (3) orientation for workers and to provide the employment and case management services set forth in Section 235 (as amended).

Sec. 162. Fraud and Recovery of Overpayments. The section states that repayment shall be waived if the overpayment was made without fault on the part of such individual and if repayment "would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual or household and other ordinary living expenses of the individual or household."

Sec. 163. Technical amendments. The section corrects the misspelling of "subpoena."

Sec. 164. Office of Trade Adjustment Assistance; Deputy Assistant Secretary for Trade Adjustment Assistance. The section creates an Office of Trade Adjustment Assistance, headed by a Senate-confirmed Deputy Assistant Secretary of Labor who will be responsible for overseeing implementation of the TAA for Workers program and carrying out functions delegated by the Secretary of Labor, including: making group certification determinations; providing TAA information and assisting workers and others prepare petitions; ensuring covered workers receive Sec. 235 employment and case management services; ensuring States comply with the terms of their Sec. 239 agreements; advocating for workers applying for assistance; receiving workers' complaints and grievances; and, operating a hotline that workers and employers may call with questions about TAA benefits, eligibility requirements, and application procedures.

Sec. 165. Collection of data and reports; information to workers. Within 90 days of enactment, the Secretary of Labor must implement a system for collecting data on all workers who apply for or receive TAA. The system must include the following data classified by State, industry, and nationwide totals: number of petitions; number of workers covered; processing time for each petition; a breakdown of certified petitions by

the cause of job loss (increased imports etc.); number of workers in any aspect of TAA; reemployment rates/sectors after receiving TAA; the type of TAA received (training etc.); number receiving each type of assistance; average duration of time workers receive each type; fields of training/education in which workers enroll; the number of workers participating in each field, classified by major types; the number of workers failing to complete a course of training or education, classified by the cause; the number of training waivers granted, classified by type of waiver; and wages before separation and any job obtained after receiving TAA benefits. Within 16 months of enactment, the Secretary of Labor must submit a report on whether changes to eligibility requirements, benefits, or training funding should be made based on the data collected. Those data must be made available to the public on the Department of Labor's website in a searchable format and must be updated annually.

Sec. 166. Extension of TAA program. The section reauthorizes the TAA for Workers program until September 30, 2007. It also reauthorizes the TAA for Farmers program until September 30, 2007**.**

Sec. 167. Judicial review. The section amends existing law to require that the Secretary's findings of facts be supported by substantial evidence *and* based on a reasonable investigation. The Court of International Trade may remand the case so that further evidence can be taken, or reverse the action of the Secretary. If upon remand, the Secretary submits new or modified findings, they must be supported by substantial evidence *and* based on a reasonable investigation.

Sec. 168. Liberal construction of certification of workers and firms. The section states that the TAA provisions concerning workers and firms shall be liberally construed in favor of certifying workers and firms for trade adjustment assistance.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 201. Trade adjustment assistance for firms. The section makes service sector firms potentially eligible for TAA for Firms. It also expands the look back so that firms can use three years worth of data, as opposed to one year, to show that the firm's sales, production, or both, have decreased absolutely or that the firm's sales, production or both of an article or service that accounts for at least 25% of its total production or sales have decreased absolutely. The section clarifies that in evaluating whether a significant number of workers is threatened with total or partial separation, the Secretary of Commerce shall consider demonstrably adverse trends, like unused production capacity, a significant profitability decline, or a significant market share decline. In determining whether there have been increased imports, the section makes it clear that the Secretary may use data from any of the three preceding calendar years when determining and may determine that increased imports exist if customers accounting for a significant percentage of the decline certify that they are buying imports. It also requires the Secretary to obtain information from the customers when requested by the firm petitioning for TAA coverage. The information must be kept confidential, but can be viewed in camera by a court. Additionally, the section requires the Secretary of

Commerce, upon receiving notice from the Secretary of Labor that the workers of a firm are TAA-covered, to notify that firm of its potential TAA eligibility.

Sec. 202. Extension of authorization of trade adjustment assistance for firms. This section reauthorizes the program through October 1, 2012 and increases its funding to $50M a year. Of that amount, $350K is set aside to fund full-time TAA for Firms positions at the Department of Commerce.

Sec. 203. Industry-wide programs for the development of new services. This section adds language reflecting the expansion of TAA coverage to the service sector. The section also makes associations etc. eligible for technical assistance if a substantial number of workers or firms in the association etc. have received industry-wide certification.

TITLE III—UNEMPLOYMENT INSURANCE

Sec. 301. Short title.

Sec. 302. Special transfers to State Accounts in the Unemployment Trust Fund. This section would amend section 903 of the Social Security Act by providing up to $7 billion in additional funds to States' accounts within the Unemployment Trust Fund (UTF) as "modernization incentive payments" for including certain policies in State law. Funds would be distributed to the State UTF accounts based on the State's share of estimated federal unemployment taxes made by the State's employers.

One-third of a State's maximum payment would be contingent on the State law either (A) using a base period that includes the most recently completed calendar quarter before the start of the benefit year for the purposes of determining eligibility for UC or (B) providing that, in case of an individual who would not otherwise be eligible for UC under State law, eligibility shall be determined using a base period that includes such calendar quarter.

The remainder of the maximum payment would be contingent on State law containing two of the following three provisions:

1. No denial of UC under State law provisions relating to availability for work, active search for work, or refusal to accept work solely because such individual is seeking only part-time work. States may exclude an individual if the majority of the weeks of work in such individual's base period do not include part-time work.

2. No disqualification from regular UC for separation if it is for compelling family reasons. These reasons must include (i) domestic violence, (ii) illness or disability of an immediate family member, (iii) the need to accompany a spouse to a place from where it is impractical to commute and is due to a change in location of the spouse's employment.

3. Weekly UC continues to individuals who have exhausted all rights to regular and extended UC but are enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. The benefit extension must be for at least an additional 26 weeks and be equivalent to the previously calculated UC benefit.

States must submit applications for incentive payments. The Secretary of Labor may use regulations to determine compliance with the proposed law.

States must be eligible for certification under section 303 [of the Social Security Act] and under section 3304 of the Federal Unemployment Tax Act.

States may only use the incentive payments received for payment of UC benefits. An exception is made for those funds subject to conditions set forth in subsection (c)(2) [of section 903 of the Social Security Act], excluding the conditions in subparagraph (B) [of section 903 of the Social Security Act]. Funds that satisfy this exception may be used for the administration of UC law and for public employment offices. The Secretary of Labor must reserve $7 billion for incentive payments in the federal unemployment account (FUA) of the UTF.

Section 302 also would increase the total amount for transfer to States for administrative purposes under 903(a) [of the Social Security Act] by $100 million in each of the fiscal years 2008 through 2012. Funds would be distributed to the State UTF accounts based on the State's share of estimated federal unemployment taxes made by the State's employers.

Any advances made to the State account will be first credited against, and operate to reduce, any additional amount transferred to the State account due to these $100 million transfers.

Any additional amount transferred to a State account as a result of these $100 million transfers may be used by the State agency of such State only in (i) the payment of expenses incurred by it by carrying out of the purposes in State law required to receive the incentive payments, (ii) improved outreach to individuals who might be eligible for regular UC by virtue of the changes in State law, (iii) the improvement of unemployment benefit and unemployment tax operations, and (iv) staff-assisted reemployment services for UC claimants.

The funds for these payments shall be taken out of the employment security administration account (ESAA).

Sec. 303. Extension of FUTA tax. This section would extend the 0.2% FUTA surtax through calendar year 2012. This tax is applied to employers on the first $7,000 in wages for each employee, equaling a maximum of $14 per worker, per year.

TITLE IV— MANUFACTURING REDEVLOPMENT ZONES

Sec. 401. Manufacturing Redevelopment Zones.

Sec. 402. Delay in Application of Worldwide Interest Allocation.

Details will be provided in a separate document prepared by the Ways and Means Tax staff.